

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Jaquelyn Annette Martino, et al.
	:	
For	:	ADAPTABLE REMOTE CONTROL
	:	WITH EXCHANGEABLE CONTROLS
	:	
Serial No.:	:	09/739,512
	:	
Filed	:	December 18, 2000
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Art Unit	:	2677
	:	
Examiner	:	Kimnhung T. Nguyen
	:	
Att. Docket	:	US000363
	:	
Confirmation No.	:	3118

APPEAL BRIEF

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed October 27, 2006.

I. REAL PARTY IN INTEREST

The party in interest is Philips Electronics North America Corp. by way of an Assignment recorded at Reel 011386, frame 0203.

II. RELATED APPEALS AND INTERFERENCES

Following are identified any prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal:

NONE.

III. STATUS OF CLAIMS

This is an appeal from the Final Office Action dated September 14, 2006 rejecting claims 1-11 and 20-28. Claims 12-19 have been withdrawn. The claims being appealed are 1-11 and 20-28. No other claims are pending.

IV. STATUS OF AMENDMENTS

All Amendments have been entered into the record.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter recited in independent claim 1 relates to a user interface, comprising at least two physical objects, each associated with a respective data set consisting of at least one datum defining preferences of a user, a controller connected to a data store and programmed to perform an operation on said respective data sets, said controller having a receiver, at least one transmitter

operatively associated with said at least two physical objects and responsive to a mechanical state of said at least two physical objects such that a control signal is transmitted to said receiver corresponding to an operation to be performed on at least one of said data sets and responsive to at least the other of said data sets, said controller being programmed to perform said operation. *See*, page 7, line 9 to page 14, line 4.

The subject matter recited in independent claim 6 relates to a user interface, comprising a mechanically connected combination of tokens, each associated with a data set, a console interoperable with said tokens, said console having a controller, a transmitter, and an interface, said controller being programmed such that a first mechanical configuration of one of said tokens, effective to interface said one of said tokens with said console, results in the transmission of a command indicating a data exchange operation involving said data set associated with another one of said tokens. *See*, page 17, line 12 to page 21, line 21.

The subject matter recited in independent claim 25 relates to a system for performing an operation on an object, the system comprising a plurality of tokens, each associated with a respective data set consisting of at least one datum defining preferences of a user, a communication device configured to perform an operation on said respective data sets, wherein said communication device is operatively associated with said plurality of tokens and responsive to a mechanical state of said plurality of tokens such that a control signal is transmitted to said communication device corresponding to an operation to be performed on at least one of said data sets and responsive to at

least the other of said data sets, said communication device being programmed to perform said operation. *See*, page 7, line 9 to page 14, line 4.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

A. Claims 1, 4-7, 9-11 and 25-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Number 6,262,711 to Cohen et al.

VII. ARGUMENT

A. Rejection of Claims 1, 4-7, 9-11 and 25-27 Under 35 U.S.C. §102(b)

The Final Office Action dated September 14, 2006, rejects claims 1, 4-7, 9-11 and 25-27 under 35 U.S.C. § 102(e) as being anticipated by Cohen et al.

The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131. The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Cohen et al. relates to computerized interactor systems and a method for providing the

same. In FIG. 1, an interactor system 10 includes a detection space 12, a controller computer 14, and an optional system 16. See col. 5, ln. 10-18. A number of interactors 18 may be engaged with, moved around in, and removed from the detection space 12. Id. By coupling the optional system 16 to computer 14, interactors and the optional system 16 can interact within controller computer 14. See col. 5, ln. 55-57. An interactor system 24 used to mark events in a temporal flow is illustrated in FIG. 2. See col. 6, ln. 1-8. The interactor system 24 includes a detection field 26, a computer 28, and a video system 30. Id. The detection field 26 is, in this embodiment, a two-dimensional detection field in that it can detect positions of interactors 34 in both an "x" and a "y" direction. See col. 6, ln. 16-18. In FIG. 11a, a detection field 166 has a number of interactors 168 that can be positioned at various locations. See col. 10, ln. 26-29. In this instance, one of the interactors 168a represents the user herself. Id. In a second example, an interactor system such as interactor system 24 is controlled to "mark" or "log" events in a videotape. See col. 13, ln. 30-34.

1. Claims 1 and 25

Claims 1 and 25 recite at least two objects "each associated with a respective data set consisting of at least one datum defining preferences of a user." The applicants respectfully submit that Cohen et al. does not show this feature. The interactors of Cohen et al. are used in conjunction with the detection space to define a human/computer interface based on the physical location of the interactors. See col. 5, ln. 10-18. Data derived from the interaction of an interactor with the detection space is used to control an optional system. See col. 5, ln. 55-57. For example, an

interactor can be used to represent the user's position in a room in order to control a number of speakers to simulate the effect of the placement of voices within the room. See col. 10, ln. 26-39. In another embodiment, the interactors of Cohen et al. are used to mark or log events in a videotape based on their location within the detection field. See col. 13, ln. 30-55. The interactors of Cohen et al. are therefore used for providing input to an external system on the basis of spatial location, not for "defining preferences of a user." Thus Cohen et al. does not disclose at least two objects "each associated with a respective data set consisting of at least one datum defining preferences of a user," as recited in claims 1 and 25.

Appellant notes that the rejection recharacterizes the disclosure of Cohen et al. as compared to the representations made regarding the disclosure of Cohen et al. in the Office Action dated January 11, 2006. However, the recharacterized representation regarding the disclosure of Cohen et al. fails to overcome the deficiencies in the disclosure of Cohen et al. described above. Specifically, the Office Action relies on computer video system 30 and the disclosure at column 6, lines 1-11 and Figure 2 with respect to defining preferences of the user. Appellant respectfully submits that the computer video system 30, and the disclosure at column 6, lines 1-11 and Figure 2 does not pertain to the recitations in the rejected claims of defining preferences of the user.

For at least the foregoing reasons, claims 1 and 25 are patentable over Cohen et al. because Cohen et al. does not disclose each and every element recited in claims 1 and 25.

2. Claims 4, 5, 26 and 27

Claims 4, 5, 26 and 27 depend from claims 1 and 25, respectively, and are therefore also patentable for at least the reasons stated above in connection with claims 1 and 25, as well as for the separately patentable subject matter recited therein.

3. Claim 6

Claim 6 recites “a mechanically connected combination of tokens, each associated with a data set.” The applicants respectfully submit that Cohen et al. does not show this feature. As shown in FIGS. 2, 3, 9b, 9c, 11a, 11b, and 17, an interactor is placed within the detection field in order to provide information about the spatial location of the interactor to an associated computer. As shown in each of these figures and as further illustrated in FIG. 5, the interactors are independent from the plurality of other interactors. Cohen et al. therefore does not teach connecting the plurality of interactors by some mechanical means. Thus Cohen et al. does not disclose “a mechanically connected combination of tokens, each associated with a data set,” as recited in claim 6.

Appellant presented arguments with respect to claim 6 in response to this rejection in the Amendment filed on March 29, 2006. In the Office Action mailed September 14, 2006, in section 7 on page 5, a response to the arguments filed March 29, 2006 was presented. However, Appellant notes that this response entirely ignores Appellants arguments regarding claim 6.

Further, in the rejection in section 4, the Office Action purports to address claim 6 in connection with claims 1 and 25. However, the client notes that claim 6 recites subject matter that is

not recited in either claim 1 or claim 25. The rejection fails to address this subject matter uniquely recited in claim 6.

For at least the foregoing reasons, claim 6 is patentable over Cohen et al. because Cohen et al. does not disclose each and every element recited in claim 6.

4. Claims 7 and 9-11

Claims 7 and 9-11 depend from claim 6 and are therefore also patentable for at least the reasons stated above in connection with claim 6, as well as for the separately patentable subject matter recited therein.

CONCLUSION

For at least the reasons discussed above, it is respectfully submitted that the rejection is in error and that claims 1, 4-7, 9-11 and 25-27 are in condition for allowance. For at least the above reasons, Appellants respectfully request that this Honorable Board reverse the rejection of claims 1, 4-7, 9-11 and 25-27.

Respectfully submitted,
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December 20, 2006

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VIII. CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL:

1. A user interface, comprising:

at least two physical objects, each associated with a respective data set consisting of at least one datum defining preferences of a user;

a controller connected to a data store and programmed to perform an operation on said respective data sets;

said controller having a receiver;

at least one transmitter operatively associated with said at least two physical objects and responsive to a mechanical state of said at least two physical objects such that a control signal is transmitted to said receiver corresponding to an operation to be performed on at least one of said data sets and responsive to at least the other of said data sets, said controller being programmed to perform said operation.

2. A user interface as in claim 1, wherein said at least two physical objects are tokens connected by a chain, a wire, string, or filament.

3. A user interface as in claim 2, wherein said at least two physical objects are beads.

4. A user interface as in claim 1, further comprising a console operatively associated with said at least two physical objects, said console housing said transmitter.
5. A user interface as in claim 4, wherein said console has a display and at least one control switch, said control signal being responsive to data entered through said at least one control switch and an image of said display being responsive to said control switch.
6. A user interface, comprising:
 - a mechanically connected combination of tokens, each associated with a data set;
 - a console interoperable with said tokens;
 - said console having a controller, a transmitter, and an interface;
 - said controller being programmed such that a first mechanical configuration of one of said tokens, effective to interface said one of said tokens with said console, results in the transmission of a command indicating a data exchange operation involving said data set associated with another one of said tokens.
7. A user interface as in claim 6, wherein said console has at least one control switch to which said command is responsive.

8. A user interface as in claim 6, wherein said tokens are beads connected by one or more flexible connectors.
9. A user interface as in claim 6, wherein said interface includes a contact elements that is configured to permit said controller to detect a presence of a one of said tokens that is in contact with said interface.
10. A user interface as in claim 6, wherein each of said tokens contains a unique encoded signature transmittable to said controller via said interface such that said controller may distinguish among said tokens.
11. A user interface as in claim 6, wherein each of said tokens has a device containing a code uniquely identifying said token such that said controller can distinguish between said tokens.
20. A user interface as in claim 1, wherein said at least two physical objects are tokens connected together by one of a chain, a wire, string, and a filament.
21. A user interface as in claim 1, wherein one of said two physical objects is a bead that has a visual characteristic that visually distinguishes said one of said two physical objects from another

one of said two physical objects.

22. A user interface as in claim 21, wherein said visual characteristic is one of color, pattern, picture, and shape.

23. A user interface as in claim 1, wherein one of said two physical objects is a soft bead comprising a pressure sensitive switch.

24. A user interface as in claim 23, wherein said one of said two physical objects comprises a scrollable display, wherein said pressure sensitive switch is configured to scroll said scrollable display if pressure is applied to said pressure sensitive switch.

25. A system for performing an operation on an object, the system comprising:
a plurality of tokens, each associated with a respective data set consisting of at least one datum defining preferences of a user;
a communication device configured to perform an operation on said respective data sets, wherein said communication device is operatively associated with said plurality of tokens and responsive to a mechanical state of said plurality of tokens such that a control signal is transmitted to said communication device corresponding to an operation to be performed on at least one of said

data sets and responsive to at least the other of said data sets, said communication device being programmed to perform said operation.

26. The system of claim 25, wherein said plurality of tokens are connected together by one of a chain, a wire, string, and a filament.

27. The system of claim 25, wherein one of said plurality of beads has a visual characteristic that visually distinguishes said one of said plurality of beads from another one of said plurality of beads and wherein said visual characteristic is one of color, pattern, picture, and shape.

28. The system of claim 25, wherein at least one of said plurality of tokens is a soft bead comprising:

a pressure sensitive switch; and

a scrollable display, wherein said pressure sensitive switch is configured to scroll said scrollable display if pressure is applied to said pressure sensitive switch.

IX. EVIDENCE APPENDIX

A copy of the following evidence 1) entered by the Examiner, including a statement setting forth where in the record the evidence was entered by the Examiner, 2) relied upon by the Appellant in the appeal, and/or 3) relied upon by the Examiner as to the grounds of rejection to be reviewed on appeal, is attached:

None

X. RELATED PROCEEDINGS APPENDIX

Copies of relevant decisions in prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal are attached:

None